

Message Text

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64

ACTION EB-07

INFO OCT-01 EUR-12 IO-11 ISO-00 L-03 FRB-01 OMB-01 ITC-01

SP-02 AGR-10 AID-05 CIAE-00 COME-00 INR-07 LAB-04

NSAE-00 OIC-02 SIL-01 STR-04 TRSE-00 CIEP-02 CEA-01

AF-06 ARA-10 EA-09 NEA-10 FTC-01 JUSE-00 H-02 /113 W

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R 011415Z MAR 76

FM USMISSION GENEVA

TO SECSTATE WASHDC 8434

INFO USMISSION OECD PARIS

UNCLAS GENEVA 1496

H PASS CODEL

JUSTICE FOR KAUPER, FTC FOR LEWIS, STR FOR WOLFE, EB FOR WINTER

E.O. 11652: N/A

TAGS: UNCTAD, ETRD

SUBJECT: UNCTAD COMMITTEE ON MANUFACTURES AD HOC GROUP OF EXPERTS
ON RESTRICTIVE BUSINESS PRACTICES (RBP) MEETING FEBRUARY
16-27, 1976

1. SUMMARY: UNCTAD COMMITTEE ON MANUFACTURES SECOND AD HOC GROUP OF EXPERTS ON RESTRICTIVE BUSINESS PRACTICES (RBP) MET IN GENEVA FEBRUARY 16-27, 1976. SOME IMPROVEMENTS WERE MADE IN LIST OF RESTRICTIVE BUSINESS PRACTICES WHICH MAY ADVERSELY AFFECT TRADE AND DEVELOPMENT OF DEVELOPING COUNTRIES. NON-EXHAUSTIVE OUTLINE OF POSSIBLE CONSIDERATIONS FOR POSSIBLE MODEL LAW ON RESTRICTIVE BUSINESS PRACTICES WAS PRODUCED. NO SUBSTANTIVE DISCUSSIONS WERE HELD ON POSSIBLE INTERGOVERNMENTAL EXCHANGES OF VIEWS OR CONSULTATIONS, OR ON POSSIBILITY OF ARRIVING AT MULTILATERALLY ACCEPTABLE PRINCIPLES ON RESTRICTIVE BUSINESS PRACTICES. OPPOSING PAPERS OF GROUP B AND GROUP OF 77 ON THESE TOPICS WERE TABLED AND WILL BE INCLUDED IN REPORT. GROUP AGREED THAT ITS WORK WAS CONCLUDED. U.S.

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AMBASSADOR TO MTN WALKER RAISED WITH U.S. DEL ON FRIDAY,

FEBRUARY 27, SENATE RESOLUTION 265 (ON BRIBERY) AND POSSIBILITY OF INCLUSION OF BRIBERY ISSUE AS RESTRICTIVE BUSINESS PRACTICE IN UNCTAD FORUM. AMBASSADOR WALKER URGED U.S. DEL TO SEEK SPECIFIC INSTRUCTIONS ON BRIBERY ISSUE FOR FUTURE GUIDANCE. END SUMMARY.

2. UNCTAD COMMITTEE ON MANUFACTURES SECOND AD HOC GROUP OF EXPERTS ON RESTRICTIVE BUSINESS PRACTICES MET FEBRUARY 16-27, 1976, IN GENEVA, CONTINUING MEETINGS BEGUN IN OCTOBER, 1975 AND UTILIZING THE SAME AGENDA CONTAINING FOUR MAIN TOPICS. MOST GROUP OF 77 DELEGATES TO THIS SESSION WERE NOT PRESENT AT EARLIER SESSION, SO THAT CONTINUITY WAS MINIMAL. WORK OF THE GROUP WAS ALSO SLOWED BY A GENERAL STRIKE OF U.N. EMPLOYEES IN GENEVA COMMENCING FEBRUARY 25, WHICH PREVENTED TRANSLATION OR RAPID PRODUCTION OF DOCUMENTS.

3. REGARDING FIRST TOPIC, IDENTIFICATION OF RESTRICTIVE BUSINESS PRACTICES WHICH MAY INJURE TRADE AND DEVELOPMENT OF DEVELOPING COUNTRIES, RELATIVELY FEW CHANGES WERE MADE FROM OCTOBER, 1975 DRAFT. ALL CHANGES WERE SUGGESTED BY GROUP B, PRIMARILY U.K. DEL. CHANGES MADE WERE ALL ACCEPTABLE TO U.S. DEL IN ACCORDANCE WITH INSTRUCTIONS. WHERE GROUP OF 77 REFUSED TO ACCEPT CHANGES, SEPARATE STATEMENTS OF EXPERTS FROM DEVELOPED COUNTRIES WERE INSERTED. SIGNIFICANT IMPROVEMENTS INCLUDED INSERTION OF A LIMITING DEFINITION OF RESTRICTIVE BUSINESS PRACTICES SUPPORTED BY MOST OF GROUP B, AN AGREED STATEMENT THAT RBP'S MAY AFFECT INTERNATIONAL TRADE GENERALLY, AND A RECOMMENDATION FOR DELETION OF REFERENCES TO TRANSFER PRICING AND INTRA-CORPORATE PRACTICES ON THE PART OF U.S. DEL AND SWITZERLAND, FRG, NETHERLANDS, AND JAPAN. OTHER CHANGES WERE TECHNICAL IN CHARACTER.

4. REGARDING SECOND TOPIC, POSSIBLE IMPROVEMENTS IN INTER-GOVERNMENTAL EXCHANGES OF INFORMATION AND VIEWS, NO SUBSTANTIVE DISCUSSIONS WERE HELD. GROUP B TABLED A DESCRIPTIVE PAPER ON EXISTING BILATERAL NOTIFICATIONS AND EXCHANGES OF VIEWS, NOTING THE LACK OF USE OF CONSULTATION PROCEDURES, TO BE INCLUDED IN THE REPORT. NO AGREED TEXT BEYOND THAT REACHED IN OCTOBER, 1975 SESSION WAS PRODUCED, AND OCTOBER TEXT WAS REORGANIZED AT GROUP B SUGGESTION TO REFLECT UNDERSTANDING THAT NO IMPLI-

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CATION SHOULD BE DRAWN THAT OTHER THAN EXISTING PUBLIC INFORMATION ON RPB'S AND RELATED SUBJECTS SHOULD BE MADE AVAILABLE TO UNCTAD.

5. ON THIRD TOPIC, POSSIBILITIES OF CREATION OF MODEL RBP LAWS FOR DEVELOPING COUNTRIES, THE GROUP AGREED THAT NO LAW COULD BE DRAFTED IN THIS SESSION. GROUP OF 77 PROPOSED A NON-EXHAUSTIVE PAPER ON FEBRUARY 25 OUTLINING CONSIDERATIONS FOR MODEL LAWS WHICH WAS DISCUSSED BRIEFLY. U.S. DEL,

JOINED BY MOST OF GROUP B, INSERTED FOOTNOTES INDICATING DISAGREEMENT WITH CERTAIN PROPOSED OBJECTIVES FOR AND COVERAGE OF MODEL LAWS. WHILE TEXT COULD HAVE BEEN IMPROVED IF GROUP OF 77 HAD INTRODUCED PAPER EARLIER, GROUP B FOUND NO SUBSTANTIAL GROUNDS FOR OBJECTION TO MOST OF GROUP OF 77 OUTLINE. IT APPEARS LIKELY THAT UNCTAD WILL, AT SOME FUTURE TIME, TRY TO DRAFT A MODEL LAW WITH THE ASSISTANCE OF A SMALL GROUP OF EXPERTS ON RBP. U.S. DEL SUGGESTS THAT U.S. PARTICIPATION IN SUCH A DRAFTING GROUP WOULD BE DESIRABLE TO ATTEMPT TO AVOID POSSIBLE INTERTION OF INAPPROPRIATE ELEMENTS AT THAT TIME.

6. REGARDING FOURTH TOPIC, POSSIBILITY OF ARRIVING AT MULTILATERALLY ACCEPTABLE PRINCIPLES ON RBP'S, NO SUBSTANTIVE DISCUSSIONS BEYOND INITIAL EXCHANGES OF VIEWS WERE HELD. GROUP B TABLED A DISCUSSION PAPER ON FEBRUARY 23, STATING IN STRONG TERMS THAT ANY PRINCIPLES SHOULD BE VOLUNTARY AND SHOULD BE PRIMARILY ADDRESSED TO GOVERNMENTS. GROUP OF 77 TABLED AN UNACCEPTABLE OPPOSING PAPER ON THE AFTERNOON OF FEBRUARY 26. GROUP OF 77 TEXT GENERALLY PROPOSES MEASURES UNRELATED TO RBP'S DESIGNED TO SECURE POLITICAL AND ECONOMIC ADVANTAGES FOR DEVELOPING COUNTRIES GENERALLY, AS WELL AS UNACCEPTABLE INFORMATION REPORTING REQUIREMENTS FOR ENTERPRISES. BOTH TEXTS WILL APPEAR IN THE REPORT. GROUP B DECLINED TO JOIN GROUP OF 77 STATEMENT THAT AGREEMENT ON PRINCIPLES IS POSSIBLE. GROUP B INSERTED SEPARATE STATEMENT NOTING THAT AGREEMENT MIGHT BE POSSIBLE ONLY AFTER SUBSTANTIVE DISCUSSION.

7. REGARDING POSSIBLE FUTURE WORK, THE GROUP GENERALLY AGREED THAT IT WORK WAS TERMINATED. SECRETARIAT HAD PREPARED A STATEMENT CALLING FOR FUTURE CONSIDERATION BY EXPERTS, BOTH GOVERNMENTAL AND INDIVIDUAL, OF THE UNRESOLVED AREAS OF THE GROUP'S MANDATE. GROUP B SUCCEEDED IN REDUCING THIS TO A STATEMENT RECOGNIZING THE DESIRABILITY OF FUTURE WORK ON THE SUBJECT

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OF RBP'S GENERALLY, BUT NOT WITH REFERENCE TO THE CONTEXT OF UNCTAD. THERE IS A LIKELIHOOD THAT SECRETARIAT WILL URGE FURTHER WORK IN THIS AREA, PARTICULARLY ON CONSULTATION PROCEDURES, MODEL LAWS AND MULTILATERALLY ACCEPTABLE PRINCIPLES AMOUNTING TO A CODE OF CONDUCT, IN THE NEXT MEETINGS OF THE TRADE AND DEVELOPMENT BOARD, COMMITTEE ON MANUFACTURES AND UNCTAD ITSELF. GROUP B MEMBERS GENERALLY FELT THAT EXPERT GROUP EXERCISES OF THIS TYPE TENDED TO BE UNPRODUCTIVE IN VIEW OF FAILURE OF GROUP OF 77 TO SEND LEGITIMATE EXPERTS IN THE FIELD, RELYING INSTEAD ON POLITICAL OFFICERS IN PERMANENT DELEGATIONS TO UNCTAD.

8. AMBASSADOR WALKER OF MTN DELEGATION MET WITH U.S. DEL MORNING OF FEBRUARY 27 TO DISCUSS SENATE RESOLUTION 265 (ON BRIBERY) AND POSSIBLE INCLUSION OF BRIBERY INTO UNCTAD FORUM AS

RPB ISSUE. DELEGATION SAID THAT THEY HAD NOT RPT NOT BEEN
INSTRUCTED TO RAISE BRIBERY ISSUE IN UNCTAD AND BECAUSE OF
VERY LATE DATE IT WOULD BE DIFFICULT TO DO SO. AMBASSADOR
WALKER REQUESTED THAT U.S. DEL SEEK SPECIFIC GUIDANCE ON THIS
MATTER FOR FUTURE REFERENCE. DALE

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: TRADE DISCRIMINATION, LESS DEVELOPED COUNTRIES, BUSINESS FIRMS, DEVELOPMENT PROGRAMS, MEETING REPORTS
Control Number: n/a
Copy: SINGLE
Draft Date: 01 MAR 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976GENEVA01496
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760077-1041
From: GENEVA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t197603108/aaaadrsp.tel
Line Count: 174
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EB
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: morefirh
Review Comment: n/a
Review Content Flags:
Review Date: 24 MAY 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <24 MAY 2004 by fisherem>; APPROVED <26 MAY 2004 by morefirh>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: UNCTAD COMMITTEE ON MANUFACTURES AD HOC GROUPOF EXPERTS ON RESTRICTIVE BUSINESS PRACTICES (RBP) MEETING
FEBRUARY
TAGS: ETRD, OCON, UNCTAD
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006